

Remarks

Status of the Claims

Claims 1-17, 19-37, and 39-46 were pending in the application and stand rejected. By this paper, claims 14, 15, 19, 34, 35, 39, and 42-45 have been canceled without prejudice or disclaimer, and claims 1, 2, 5, 6, 8, 9, 16, 20-22, 25, 26, 28-31, 36, 40, 41, and 46 have been amended. For the reasons set forth below, Applicants submit that each of the pending claims is patentably distinct from the cited prior art and in condition for allowance. Reconsideration of the claims is therefore respectfully requested.

Claim Rejections – 35 U.S.C. § 112

Claims 1, 2, 15, 16, 21, 22, 35, 36, 41, 42, 45, and 48 were rejected under 35 U.S.C. 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner objected to the phrase “forwarding the video communication request from the broadcast center to the first [or second] selected communication device.” The Examiner interpreted this phrase to mean forwarding the resulting requested video to the first or second communication device rather than the request, as claimed.

This is not the interpretation Applicants intended. The claimed “video communication request” is actually a request to establish two-way video communication. In other words, it is a connection request. As recited in claim 2 and original claim 14 (now canceled and incorporated into claim 1), and described at pages

3, 5, 18, and 29 of the specification, the recipient is free to either accept or reject the request or simply not respond within a prescribed time interval. This wouldn't make any sense if the "video communication request" was video content already requested by the user from a content server (as in Spies et al.).

Applicants have amended the independent claims to clarify that what is received is a "request to establish two-way video communication between a caller and a recipient." Applicants respectfully submit that this amendment overcomes the § 112 rejection and request that it be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-17, 19-37, and 39-46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Spies et al. ("Spies") and Knauerhase. This rejection is respectfully traversed. As set forth below, Applicants respectfully submit that each of the pending claims is patentably distinct from the cited references, individually and collectively.

To establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all of the claim limitations. See M.P.E.P. § 2143. Thus, to sustain the foregoing rejections of the claims, Spies alone or in combination with Knauerhase, must identically teach or suggest each and every element of the claims. The Applicants respectfully submit that the cited references fail to teach or suggest the elements of the pending claims for the following reasons.

1. Cited references do not teach or suggest routing of **video calls** or forwarding requests for establishing **two-way video communication** between a caller and a recipient.

As amended, claim 1 recites a “method for routing **video calls** to a user of multiple communication devices” comprising the step of “receiving a **request to establish two-way video communication between a caller and a recipient ...**”

In the final Office Action mailed April 24, 2006 (“Office Action”), the Examiner relied on Spies, analogizing the claimed recipient to a “subscriber/purchaser 26” of video content. Office Action at page 3. According to the Examiner:

the video merchant receives a request for a video content program from the purchaser whom presents an IC card 50 to the video merchant for a selected video content program. After that, the video content provider supplies the video content program on a distribution medium by receiving the request which is addressed to the purchaser from the video merchant.

Id.

Spies could not be more different from the claimed invention. The reference has nothing whatever to do with video call routing or establishing two-way video communication between a caller and a recipient. Spies’ subscriber/purchaser is not a

person to whom a request to establish two-way communication has been sent. As noted above with respect to the § 112 rejection, claim 2 and original claim 14 would not make any sense in the context of Spies. His subscriber/purchaser affirmatively requested the video content and is therefore not “receiving a request” that he or she may either accept, reject, or fail to accept within a particular time interval. These limitations have no meaning in Spies.

Knauerhase also does not relate to video communication. As described in Knauerhase’s abstract, the reference relates to “routing a message (e.g., text message, voice message, etc.) based on the accessibility of an intended recipient’s associated communication channels (e.g., email, fax, instant message, cell, landline, etc.). Knauerhase doesn’t even mention the word “video.”

Accordingly, Applicants respectfully submit that the combination of Spies and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 20 includes similar limitations and is believed to be patentably distinct for at least the same reasons.

2. Cited references do not teach or suggest determining a set of communication devices capable of two-way video communication associated with the recipient.

As amended, claim 1 recites “**determining** a set of communication devices **capable of two-way video communication** associated with the recipient.” The Office Action previously relied on Spies, arguing that the step of “determining a set of communication devices associated with the recipient” was satisfied by the fact that a “purchaser” might be using a “STB, a desktop, a computer, a DVD player or some other

computing mechanism that is capable of handling video content program.” Office Action at page 4. However, the mere fact that a purchaser could potentially use different devices does not satisfy the step of **determining** a set of communication devices capable of two-way video communication associated with the user, as claimed. Who, according to the Office Action’s interpretation, is performing the determining step? When or where is this determination being made? A user may own a video-capable device without a set of video-enabled communication devices for the user ever being identified. Applicants respectfully submit that the Office Action has not accounted for the step of determining a set of communication devices, let alone a set of communication devices capable of video communication that are associated with a particular user.

Accordingly, Applicants respectfully submit that the combination of Spies and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 20 includes similar limitations and is believed to be patentably distinct for at least the same reasons.

3. Cited references do not teach or suggest forwarding a request to establish two-way video communication from a broadcast center.

Claim 41 recites that the “the request [is] received at a broadcast center configured to distribute programming content from content providers” and that the broadcast center routes the request to the first selected communication device.

Applicants respectfully submit that Spies and Knauerhase, either individually or when combined, do not teach or suggest receiving a request to establish two-way video

communication at a broadcast center configured to distribute programming content from content providers and forwarding the request from the broadcast center to a communication device with a highest probability of being accessible to the recipient.

Indeed, on page 2 of the Office Action, the Examiner admits to interpreting this element of claim 1 to mean “forwarding the resulting [or] requested video (or the video content) to the first or second communication device.” This is an erroneous interpretation of claim 1, when considered as a whole and in the context of the specification. The claims are directed to routing video calls, not to requesting video content to be downloaded or otherwise purchased from a content provider.

Knauerhase teaches routing messages. However, Knauerhase is silent as to using a **broadcast center** to route messages. Further, the Examiner has made no argument that Knauerhase teaches or suggests using a broadcast center to route messages.

Assuming, *arguendo*, that the Spies' video merchant is the same as the claimed broadcast center (as argued at page 3 of the Office Action), there is no hint or suggestion for how or why Spies' video merchant would be involved in the routing of video calls and/or the forwarding of requests for two-way video communication to a recipient's communication device. Spies video merchant is clearly a video download service. See Spies' Abstract. There is no hint or suggestion in Spies of enabling two-way video communication between users.

Thus, neither Spies nor Knauerhase, either alone or if combined, teach or suggest using a broadcast center to route video calls. Thus, for at least this reason, the rejection of claim 1 should be withdrawn.

4. Cited references do not teach or suggest obtaining schedule information from the recipient's personal information manager.

As amended, claim 5 recites that the process for selecting a communication device within the highest probability of being accessible to the recipient comprises:

obtaining schedule data from the recipient's personal information manager identifying probable physical locations of the recipient at various times without requiring the recipient to provide the schedule data specifically for purposes of determining the likelihood of the recipient's presence when routing requests;

determining from the schedule a probable physical location of the recipient at the time the request is received;
and

selecting from the set of communication devices a communication device in closest proximity to the probable physical location of the recipient.

Support for these amendments may be found, for example, at page 19 of the specification.

The Office Action cites to paragraphs 26 and 38 of Knauerhase. However, a closer look at these paragraphs reveals that Knauerhase teaches nothing more than a table of user preferences. Contrary to the amended limitations of claim 6, a user is specifically providing the preference (schedule) data for purposes of determining the likelihood of the recipient's presence at given times. By contrast, the claimed invention can rely on already existing information in the recipient's personal information manager (e.g., Microsoft Outlook).

Accordingly, Applicants respectfully submit that the combination of Spies and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 25

includes similar limitations and is believed to be patentably distinct for at least the same reasons.

5. Cited references do not teach or suggest making routing decisions based on **historical** usage pattern data identifying a **plurality** of communication devices used by the recipient at a **plurality** of times.

As amended, claim 6 recites that the process for selecting a communication device within the highest probability of being accessible to the recipient comprises:

storing **historical** usage pattern data identifying a **plurality** of communication devices used by the recipient at a **plurality** of times in the past; and
determining from the historical usage pattern data a communication device most likely to be accessible to the recipient at the time the request is received.

Support for these amendments may be found at pages 21 and 22 of the specification.

The Office Action cites to paragraphs 19, 26, and 31 of Knauerhase for these limitations. However, a closer look at these paragraphs reveals that Knauerhase teaches nothing more than looking at current usage, *i.e.*, "(1) whether or not the user's cell phone is turned on; (2) whether or not the cell phone is currently in use; and (3) the approximate geographical location of the cell phone" (paragraph 19) and user-provided preferences (paragraphs 26 and 31).

Assuming, *arguendo*, that Knauerhase teaches selecting the last device used by a user, this is not the same thing as storing **historical** usage pattern data for a **plurality** of communication devices at a **plurality** of times. For example, the user may typically be playing golf on Wednesdays between 8:00 a.m. and noon. The fact that the user commonly uses his mobile videophone during that period of time will be noted and recorded in the historical usage pattern data. Thus, when routing a video call to the

user on Wednesday mornings, the system will be able to select the mobile videophone rather than the user's desktop PC. This is not possible by simply relying on last device accessed by the user.

Accordingly, Applicants respectfully submit that the combination of Spies and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 26 includes similar limitations and is believed to be patentably distinct for at least the same reasons.

6. Cited references do not teach or suggest determining, based on **GPS** data obtained from a locator device carried by the recipient, where the locator device is **separate** from the selected communication device.

As amended, claim 8 recites that the process for selecting a communication device within the highest probability of being accessible to the recipient comprises:

determining, ***based on global positioning system (GPS) data obtained from a locator device carried by the recipient***, an actual physical location of the recipient at the time the request is received; and

selecting from the set of communication devices a first communication device in closest proximity to the actual physical location of the recipient, ***the first communication device being separate from the locator device.***

Support for these amendments may be found at page 23 of the specification.

Knauerhase does not disclose or even suggest a separate locator device, much less a separate locator device that provides the GPS coordinates of the recipient to enable a determination of the closest video communication device to the recipient. For example, the recipient might be carrying a GPS device that constantly relays the

location of the recipient to a server. When a video call is directed to the recipient, the server can look to the GPS information to determine which device from a set of devices is closest to the user. The recipient might be sitting at his or her desk, for instance. As a result, the video call will be routed to the recipient's desktop computer. As explained in the specification, the locator device "may be integrated with a watch, ring, or other personal item in close proximity to the recipient 406." Specification at page 23.

The cited references do not disclose or even suggest separate locator device (such as a watch or ring) that precisely establish the physical location of the recipient using GPS for purposes of video call routing. Accordingly, Applicants respectfully submit that the combination of Spies and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 28 includes similar limitations and is believed to be patentably distinct for at least the same reasons.

7. Cited references do not teach or suggest detecting keystrokes as a means of presence determination.

As amended, claim 9 recites that the process for selecting a communication device within the highest probability of being accessible to the recipient comprises:

polling each communication device within the set of communication devices for an indication of the recipient's presence, the indication comprising detection of keystrokes in connection with each communication device.

Applicant respectfully submits that the cited references are silent with respect to keystroke detection, let alone keystroke detection for purposes of presence determination. Accordingly, Applicants respectfully submit that the combination of Spies

and Knauerhase does not teach or suggest all of the claim limitations and does not, therefore, establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. Claim 29 includes similar limitations and is believed to be patentably distinct for at least the same reasons.

Conclusion

For at least the foregoing reasons, the cited prior art references, whether considered individually or in combination, fail to disclose each of the limitations in any of the pending independent claims. For at least the same reasons, each of the claims depending therefrom are also patentably distinct from the cited prior art.

In view of the foregoing, all pending claims represent patentable subject matter. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Digeo, Inc.

By /Kory D. Christensen/
Kory D. Christensen
Registration No. 43,548

STOEL RIVES LLP
One Utah Center Suite 1100
201 S Main Street
Salt Lake City, UT 84111-4904
Telephone: (801) 328-3131
Facsimile: (801) 578-6999